there is no genuine issue of material fact for each applicable element set forth in paragraphs (1) and (2) of section 1604(d) of this title.

(B) Issues of material fact

With respect to a finding made under subparagraph (A), the court shall consider a genuine issue of material fact to exist only if the evidence submitted by the claimant would be sufficient to allow a reasonable jury to reach a verdict for the claimant if the jury found the evidence to be credible.

(2) Discovery made prior to a ruling on a motion for summary judgment

If, under applicable rules, the court permits discovery prior to a ruling on a motion for summary judgment governed by section 1604(d) of this title, such discovery shall be limited solely to establishing whether a genuine issue of material fact exists as to the applicable elements set forth in paragraphs (1) and (2) of section 1604(d) of this title.

(3) Discovery with respect to a biomaterials supplier

A biomaterials supplier shall be subject to discovery in connection with a motion seeking dismissal or summary judgment on the basis of the inapplicability of section 1604(d) of this title or the failure to establish the applicable elements of section 1604(d) of this title solely to the extent permitted by the applicable Federal or State rules for discovery against nonparties.

(e) Dismissal with prejudice

An order granting a motion to dismiss or for summary judgment pursuant to this section shall be entered with prejudice, except insofar as the moving defendant may be rejoined to the action as provided in section 1606 of this title.

(f) Manufacturer conduct of litigation

The manufacturer of an implant that is the subject of an action covered under this chapter shall be permitted to conduct litigation on any motion for summary judgment or dismissal filed by a biomaterials supplier who is a defendant under this section on behalf of such supplier if the manufacturer and any other defendant in such action enter into a valid and applicable contractual agreement under which the manufacturer agrees to bear the cost of such litigation or to conduct such litigation.

(Pub. L. 105–230, § 6, Aug. 13, 1998, 112 Stat. 1526.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1603, 1604, 1606 of this title.

§ 1606. Subsequent impleader of dismissed biomaterials supplier

(a) Impleading of dismissed defendant

A court, upon motion by a manufacturer or a claimant within 90 days after entry of a final judgment in an action by the claimant against a manufacturer, and notwithstanding any otherwise applicable statute of limitations, may implead a biomaterials supplier who has been dismissed from the action pursuant to this chapter if—

(1) the manufacturer has made an assertion, either in a motion or other pleading filed with the court or in an opening or closing statement at trial, or as part of a claim for contribution or indemnification, and the court finds based on the court's independent review of the evidence contained in the record of the action, that under applicable law—

(A) the negligence or intentionally tortious conduct of the dismissed supplier was an actual and proximate cause of the harm to the claimant; and

(B) the manufacturer's liability for damages should be reduced in whole or in part because of such negligence or intentionally tortious conduct; or

(2) the claimant has moved to implead the supplier and the court finds, based on the court's independent review of the evidence contained in the record of the action, that under applicable law—

(A) the negligence or intentionally tortious conduct of the dismissed supplier was an actual and proximate cause of the harm to the claimant; and

(B) the claimant is unlikely to be able to recover the full amount of its damages from the remaining defendants.

(b) Standard of liability

Notwithstanding any preliminary finding under subsection (a) of this section, a biomaterials supplier who has been impleaded into an action covered by this chapter, as provided for in this section—

(1) may, prior to entry of judgment on the claim against it, supplement the record of the proceeding that was developed prior to the grant of the motion for impleader under subsection (a) of this section; and

(2) may be found liable to a manufacturer or a claimant only to the extent required and permitted by any applicable State or Federal law other than this chapter.

(c) Discovery

Nothing in this section shall give a claimant or any other party the right to obtain discovery from a biomaterials supplier at any time prior to grant of a motion for impleader beyond that allowed under section 1605 of this title.

(Pub. L. 105–230, § 7, Aug. 13, 1998, 112 Stat. 1528.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1603, 1604, 1605 of this title.

CHAPTER 22—NATIONAL DRUG CONTROL POLICY

Sec.

Sec.

§ 1701. Definitions

In this chapter:

(1) Demand reduction

The term ''demand reduction'' means any activity conducted by a National Drug Control Program agency, other than an enforcement activity, that is intended to reduce the use of drugs, including—

(A) drug abuse education;
(B) drug abuse prevention;
(C) drug abuse treatment;
(D) drug abuse research;
(E) drug abuse rehabilitation;
(F) drug-free workplace programs; and
(G) drug testing.

(2) Director

The term ''Director'' means the Director of National Drug Control Policy.

(3) Drug

The term ''drug'' has the meaning given the term ''controlled substance'' in section 802(6) of this title.

(4) Drug control

The term ''drug control'' means any activity conducted by a National Drug Control Program agency involving supply reduction or demand reduction.

(5) Fund

The term ''Fund'' means the fund established under section 1702(d) of this title.

(6) National Drug Control Program

The term ''National Drug Control Program'' means programs, policies, and activities undertaken by National Drug Control Program agencies pursuant to the responsibilities of such agencies under the National Drug Control Strategy.

(7) National Drug Control Program agency

The term ''National Drug Control Program agency'' means any agency that is responsible for implementing any aspect of the National Drug Control Strategy, including any agency that receives Federal funds to implement any aspect of the National Drug Control Strategy, but does not include any agency that receives funds for drug control activity solely under the National Foreign Intelligence Program, the Joint Military Intelligence Program or Tactical Intelligence and Related Activities, unless such agency has been designated—

(A) by the President; or
(B) jointly by the Director and the head of the agency.

(8) National Drug Control Strategy

The term ''National Drug Control Strategy'' means the strategy developed and submitted to Congress under section 1705 of this title.

(9) Office

Unless the context clearly implicates otherwise, the term ''Office'' means the Office of National Drug Control Policy established under section 1702(a) of this title.

(10) State and local affairs

The term ''State and local affairs'' means domestic activities conducted by a National Drug Control Program agency that are intended to reduce the availability and use of drugs, including—

(A) coordination and facilitation of Federal, State, and local law enforcement drug control efforts;
(B) promotion of coordination and cooperation among the drug supply reduction and demand reduction agencies of the various States, territories, and units of local government; and
(C) such other cooperative governmental activities which promote a comprehensive approach to drug control at the national, State, territory, and local levels.

(11) Supply reduction

The term ''supply reduction'' means any activity of a program conducted by a National